

REMARKS

The applicants have had an opportunity to carefully consider the Examiner's Office Action of March 15, 2004. This Office Action was based on consideration of a 35-page specification, claims, and abstract entitled "Apparatus, Method and System for Providing Conditional Answering in Multiple Leg Telecommunications Sessions." According to the Decision on Petition (Exhibit A) of September 2, 2004, the 35-page specification, claims, and abstract "will not be considered part of the original disclosure" and "will not be processed or examined." (Ex. A, page 2, 3rd para.)

The Decision on Petition also states that "the application will be reprocessed with a filing date of 26 April, 2000, using the 30 pages of specification entitled 'Apparatus, Method and System for Maintaining Call Control at a Gateway Mobile Switching Center Utilizing a Packet Network' supplied [with applicant's petition filed] on 15 June, 2004." (Ex. A, page 2, 4th para.) The Petitions Attorney also suggests that "in light [of this decision], the Examiner may wish to reconsider the Office Action mailed on 15 March, 2004." (Ex. A, page 2, 5th para.)

Accordingly, the applicants respectfully request that the Examiner reconsider and withdraw the Office Action mailed on March 15, 2004.

REFUND OF EXTENSION OF TIME FEES

The applicants submit herewith a Petition for Extension of Time Under 37 CFR 1.136(a) and a check to pay the corresponding \$950 fee to extend the period for filing a response to the Office Action mailed March 15, 2004. If the above request for reconsideration and withdrawal of the Office Action is granted, the applicants respectfully request that the extension of time fees be refunded by a credit to Deposit Account No. 06-0308.

CONCLUSION

In view of the Decision on Petition mailed September 2, 2004 and above remarks, the applicants respectfully request that the Examiner reconsider and withdraw the Office Action mailed on March 15, 2004.

In the event the Examiner considers personal contact advantageous to the disposition of this case, he/she is hereby authorized to call Joseph D. Dreher, at Telephone Number (216) 861-5582.

Respectfully submitted,

FAY, SHARPE, FAGAN
MINNICH & McKEE, LLP

September 15, 2004
Date

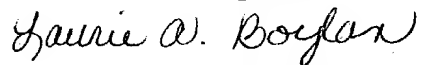

Joseph D. Dreher, Reg. No. 37,123
1100 Superior Ave., 7th Floor
Cleveland, Ohio 44114
Tel. (216) 861-5582
Fax (216) 241-1666

CERTIFICATE OF MAILING

I certify that this Response to March 15, 2004 Office Action is being

- ☐ deposited with the United States Postal Service as First Class mail under 37 C.F.R. § 1.8, addressed to: MAIL STOP AMENDMENT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date indicated below.
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FAY SHARPE FAGAN MINNICH & MCKEE LLP
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OFFICE OF PETITIONS

ON PETITION

In re Application of:
Calabrese et al.
Application No. 09/558,613
Filed: 26 April, 2000
Attorney Docket No. Calabrese 10-3-
7-16

This is a decision on the renewed petition, filed on 26 August, 2004, which is treated as a petition under 37 CFR 1.53 requesting that the above-identified application be processed with 30 pages of specification, including the claims and one (1) page containing the abstract, as the original disclosure.

The petition is GRANTED.

Petitioners assert that the specification filed with the original application papers has been misplaced in the USPTO, and that the specification contained in the original USPTO file is not the specification that applicants filed on 26 April, 2000. Specifically, petitioners assert that the application as filed consisted of 30 pages of specification, including the claims and one (1) page containing the abstract, while the specification which contained in the USPTO file consists of 35 pages.

In support, petitioners have provided an itemized postcard receipt, bearing an Office-date stamp of 04/26/00 and the above-identified application number, identifying the application by first named inventor's name and invention title, and itemizing the filing of 30 pages of specification, claims, and abstract. Petitioners have also provided a copy of the 30 pages of specification, including claims and one (1) page of abstract, asserted to have been filed on 26 April, 2000.

DOCKETED

A review of the official record reveals that 35 pages of specification entitled "Apparatus, Method, and System for Providing Conditional Answering in Multiple Leg Telecommunication Systems" is located therein. However, the invention title as listed on the itemized cover sheet filed with the original application papers and the itemized postcard receipt provided on 15 June, 2004, is "Apparatus, Method and System for Maintaining Call Control at a Gateway Mobile Switching Center Utilizing a Packet Network."

In view of the above, the evidence is persuasive that 30 pages of specification entitled "Apparatus, Method and System for Maintaining Call Control at a Gateway Mobile Switching Center Utilizing a Packet Network" were filed on 26 April, 2000, with the present application, but that the 30 pages of specification were misplaced after receipt in the USPTO, and the application was not processed with the intended specification.

The 35 pages of specification entitled "Apparatus, Method, and System for Providing Conditional Answering in Multiple Leg Telecommunication Systems" will be not be considered part of the original disclosure. The 35 pages will not be processed or examined, but will be retained in the application file.

The application will be reprocessed with a filing date of 26 April, 2000, using the 30 pages of specification entitled "Apparatus, Method and System for Maintaining Call Control at a Gateway Mobile Switching Center Utilizing a Packet Network" supplied on 15 June, 2004.

In light thereof, the examiner may wish to reconsider the Office action mailed on 15 March, 2004.

As the petition resulted from an error on the part of the USPTO, the petition fee of \$130.00 paid with the petition filed on 15 June, 2004, will be credited to counsel's deposit account, No. 06-0308, as authorized.

The application is being forwarded to the Office of Initial Patent Examination for reprocessing with a filing date of 26 April, 2000, using the application papers filed on that date and the 30 pages of specification, including one (1) page of abstract, supplied with the original petition. Thereafter, the application will be forwarded to Technology Center 2600 for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions